

### **Remarks**

The applicants have carefully considered the official action dated March 4, 2010 and the art cited therein. By way of the foregoing amendments, claims 1, 3-5, 7-8-13, 17-18, 25, 33-35, 37, 39, 43, 44-46, 48, 52-54, and 57-79 have been amended. Claim 38 has been cancelled without prejudice to its further prosecution. It is respectfully submitted that all pending claims are in condition for allowance. Accordingly, favorable reconsideration of all pending claims and an indication of allowance of the same are respectfully requested.

### **Rejections Under 35 U.S.C. § 101**

Claim 18 and claims 20-26 and 29-33, which depend from claim 18, were rejected as allegedly being directed to non-statutory subject-matter. In particular, the Office action states that the claims are directed to computer programs. Applicants respectfully traverse the rejection. Claim 18 explicitly recites that the computing platform includes a tangible processor. Accordingly, claim 18 is directed to a practical application that includes a processor. Therefore, in accordance with the 35 U.S.C. § 101 and *Interim Examination Instructions For Evaluating Subject Matter Eligibility Under 35 U.S.C. § 101* claim 18 and all claims depending therefrom are statutory. Reconsideration is respectfully requested.

Claim 43 and claims 44-51, which depend from claim 43, were rejected as allegedly being directed to non-statutory subject-matter. In particular, the Office action states that the claims are directed to computer programs. Applicants respectfully traverse the rejections. Claim 43 explicitly recites a processor to identify data having data management information associated therewith. Accordingly, claim 43 is directed to a practical application that

includes a tangible processor. Therefore, in accordance with the 35 U.S.C. § 101 and *Interim Examination Instructions For Evaluating Subject Matter Eligibility Under 35 U.S.C. § 101* claim 43 and all claims depending therefrom are statutory. Reconsideration is respectfully requested.

Claim 52 and 53 were rejected as allegedly being directed to non-statutory subject-matter. In particular, the Office action states that the claims are directed to computer programs. Applicants respectfully traverse the rejections. Claims 52 and 53 recite a tangible computer readable medium storing a computer program. MPEP § 2106.01 states “When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized.” Thus, claims 52 and 53 are statutory. Reconsideration and withdrawal of the rejections are respectfully requested.

Claim 54 and claims 55-57, which depend from claim 54, were rejected as allegedly being directed to an abstract idea. In particular, the Office action states that the claim would not produce a concrete, useful, and tangible result. Applicants respectfully traverse the rejections. Claim 54 recites modifying machine code to include instructions that, when executed, cause a computer to regulate the data according to the data management information. The modified machine code is a concrete, useful, and tangible result. Thus, claims 52 and 53 are statutory. Reconsideration and withdrawal of the rejections are respectfully requested.

Claim 58 and 59 were rejected as allegedly being directed to non-statutory subject-matter. In particular, the Office action states that the claims are directed to computer programs. Applicants respectfully traverse the rejections. Claims 58 and 59 recite that the operating system is stored on a tangible computer readable medium. MPEP § 2106.01 states “When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized.” Thus, claims 58 and 59 are statutory. Reconsideration and withdrawal of the rejections are respectfully requested.

#### **Rejections Under 35 U.S.C. § 112**

Claim 38 has been cancelled without prejudice to further prosecution. Accordingly, the rejection is moot.

#### **Rejections Under 35 U.S.C. § 103**

Claim 1 was rejected as anticipated by Van Dyke (US 6,412,070). Claim 1 recites a method that includes modifying machine code of an application to be executed to include instructions for regulating the data according to the data management information. Van Dyke does not teach or suggest modifying machine code of an application to be executed to include instructions for regulating the data according to the data management information. Rather, Van Dyke is directed to an operating system that controls access to data to provide security

without modifying applications to be executed. Accordingly, the system of Van Dyke cannot control the internal processing of the data by an application or process once the data has been accessed. Without improper hindsight reference to the instant application, one would not have been motivated to modify Van Dyke to include modifying machine code of an application. Accordingly, claim 1 and all claims depending therefrom are patentable over Van Dyke and reconsideration is respectfully requested.

Claim 18 was rejected as anticipated by Van Dyke. Claim 18 recites, *inter alia*, modifying machine code of an application to be executed to include instructions for regulating the data according to the data management information. Van Dyke does not teach or suggest modifying machine code of an application to be executed to include instructions for regulating the data according to the data management information. Accordingly, it is respectfully submitted that claim 18 and all claims depending therefrom are patentable over Van Dyke.

Claim 34 was rejected as anticipated by Van Dyke. Claim 34 recites, *inter alia*, modifying machine code of an application to be executed to include instructions for identifying data having data management information associated therewith. Van Dyke does not teach or suggest modifying machine code of an application to be executed to include instructions for identifying data having data management information associated therewith. Accordingly, it is respectfully submitted that claim 34 and all claims depending therefrom are patentable over Van Dyke.

Claim 43 was rejected as anticipated by Van Dyke. Claim 43 recites, *inter alia*, modifying machine code of an application to be executed to include instructions for regulating the data according to the data management information. Van Dyke does not teach or suggest modifying machine code of an application to be executed to include instructions for regulating the data according to the data management information. Accordingly, it is respectfully submitted that claim 43 and all claims depending therefrom are patentable over Van Dyke.

Claim 54 was rejected as anticipated by Besson ("Model Checking Security Properties of Control Flow Graphs"). Claim 54 recites, *inter alia*, modifying machine code of an application to be executed to include instructions for regulating the data according to the data management information. Besson does not teach or suggest modifying machine code of an application to be executed to include instructions for regulating the data according to the data management information. Accordingly, it is respectfully submitted that claim 54 and all claims depending therefrom are patentable over Besson.

### **Conclusion**

In general, the official action makes various statements regarding the pending claims and the cited references that are now moot in light of the above. Thus, the applicants will not address such statements at the present time. However, the applicants expressly reserve the right to challenge such statements in the future should the need arise (e.g., if such statement should become relevant by appearing in a rejection of any current or future claim).

Before closing, the applicant notes that at least the following amendments are either broadening or clarifying and, thus, not necessary for patentability:

1. The deletion “the step of” and step identifiers (e.g., a, b, etc.)
2. The amendments to claim 3, 4, 5, 8, and 9 to replace the step identifier with the language from claim 1 and the addition of “the” to address antecedent basis
3. The amendments to claim 7
4. The replacement of “analysed” with “analyzed” in claims 10, 11, 12, and 13
5. The correction of the claim dependency in claim 17
6. The replacement of “analyse” with “analyze” and the replacement of “providing” with “provide” in claim 25
7. The replacement of “analyser” with “analyzer” and the replacement of “for run time propagation of” with “to propagate, at runtime,” in claim 33
8. The replacement of “data filter comprises part of a data management unit, and” with “processor in claim 44
9. The replacement of “data management unit” with “the processor” in claim 45
10. The replacement of “wherein the data comprises” with “further comprising” in claim 46
11. The addition of “to” in claim 48
12. The replacement of “analyzing” with “analyzing”
- 13.

The above noted amendments are either broadening, or are merely clarifying in that the amended claims are intended to state the same thing as the claim was intended to state prior to amendment (i.e., to have the same scope both before and after the amendments). Consequently, these broadening or clarifying amendments do not give rise to prosecution history estoppel or limit the scope of equivalents of the claims under the doctrine of equivalents.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 08-2025 and please credit any excess fees to such deposit account.

If the Examiner is of the opinion that a telephone conference would expedite the prosecution of this case, the Examiner is invited to contact the undersigned at the number identified below.

Respectfully submitted,

/Michael W. Zimmerman/

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